

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 22, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:02od-006

OAHU

Sale of Remnant to Hawaii Conference Foundation, Hauula, Koolauloa, Oahu,
Tax Map Key: (1) 5-4-005:013.

APPLICANT:

Hawaii Conference Foundation, a domestic nonprofit corporation, whose business address is 1848 Nuuanu Avenue, Honolulu, Hawaii 96817.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Hauula, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-4-005:013, as shown on the attached map labeled Exhibit A.

AREA:

14,354 square feet, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Revocable Permit 6482 leased to Hawaii Conference Foundation for roadway purpose.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market value, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point. Chapter 343, HRS, would not apply to any future development on the parcel as no State lands would be involved.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant; and
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process.

[Note: Survey map prepared by State Survey Division for the subject area available.]

REMARKS:

In the 1960's, Hawaii Conference of the United Church of Christ (HCUCC) owned the parcels described as TMK (1) 5-3-12:8 & 9. As shown on Exhibit B. Parcel 9 abutted the Hauula Homestead Road, while Parcel 8 did not. In 1966, Parcel 9 was developed into Makao Valley Subdivision under File Plan 982, described as TMK (1) 5-3-15, which contained 44 lots that are currently owned by private entities. Staff cannot locate any legal access reserved for Parcel 8 over File Plan 982. The applicant, Hawaii Conference Foundation (HCF), which is the investment and property management arm of the HCUCC, became the owner of Parcel 8 in 1976. According to a title report submitted by HCF, there is no legal access serving Parcel 8.

On three occasions (1980, 1986 & 1990), HCF asked the Board to authorize issuance of a perpetual or term easement for access purposes, to serve Parcel 8. The Board approved the requests on each occasion, but HCF did not pursue the requests due to the appraised value, which HCF considered too high. In 1987, the Board approved the issuance of a revocable permit to HCF for access purposes on a temporary basis until HCF decided upon a choice of either a perpetual or term easement. Recently, HCF brought up the issue of buying fee title to the subject parcel.

Sec.171-52, HRS provides in pertinent part: "The term 'remnant' means a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics. A remnant may be:

- (1) Land acquired by condemnation which is in excess of the needs for which condemned;
- (2) Vacated, closed, abandoned, or discontinued road, street or alley or walk, railroad, ditch, or other right-of-way. ... "

The subject parcel was once used by Kahuku Plantation Company under a land license bearing General Lease No. 2424 for an easement for railroad purposes until its expiration in 1956. Staff notes that the railroad was over both State and private parcels. Subsequently, the same State parcel was issued under GL 3812 to Kahuku Plantation Company for roadway easement until 1984. A copy of the abstract prepared by the staff abstracter is attached as Exhibit C. Pursuant to the example cited above in the statute, the subject parcel may be regarded as a remnant as it is a portion of an abandoned railroad right-of-way.

The configuration of the subject parcel (a 40-foot wide strip of land) further limits its suitability of being utilized as a separate unit.

An adjacent State parcel, identified as TMK (1) 5-4-5:12 which is a triangular lot of about 8,000 square feet. Consolidating these two State parcels provides a bigger lot size but still of a less favorable configuration, and the resultant lot will be zoned as R-5. Chapter 171, sections 45 & 70, which relate to residential use, restrict potential lessees of the residential leases to those individuals whose annual income (including the spouse's) does not exceed \$20,000. This income limit will affect the disposition of the State parcel(s) for residential purposes, because such income level may pose a great difficulty for the qualified applicant to finance the construction of new dwelling on the premises. Therefore, staff does not support the disposition of these State parcels for any residential leases.

Department of Hawaiian Home Lands, Historic Preservation Division of DLNR, and Department of Facility Maintenance of the City and County have no objections/comments to the request. Department of Health and the City and County's Department of Planning and Permitting and Board of Water Supply have not responded as of the suspense date.

Office of Hawaiian Affairs responded that a disposition of subject parcel must be done at fair market value. Staff notes that an appraisal is required for this disposition.

Division of Forestry and Wildlife (DOFAW) objected to the request for fear of loss of public access. Staff explained to DOFAW that there is no forest reserve in the vicinity that will require access over the subject land. Subsequently, DOFAW clarified that it does not have any objection to the request.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

In view of the above analysis, staff recommends the Board find that the subject parcel is a remnant as define in the statutes, and authorize the sale of the subject parcel to the applicant.

As discussed earlier, there were three Board approvals regarding the issuance of an access easement to HCF in the past. None of these were consummated. Staff recommends the Board rescind each of these approvals.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Find that the subject land is economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. Authorize the consolidation of the subject remnant by the Applicant.
3. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject parcel as remnants to Hawaii Conference Foundation covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson

4. Rescind its prior actions of May 23, 1980, Item F-18, December 19, 1986, Item F-8 and October 12, 1990, Item F-6.
5. Authorize the cancellation of RP 6482 upon issuance of the deed or grant.

Respectfully Submitted,



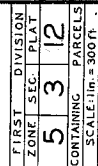
Barry Cheung
District Land Agent

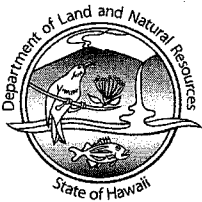
APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson







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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DEPARTMENT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

February 8, 2008

10216(O)

MEMORANDUM

TO: Barry W. Cheung, Oahu Land Agent

THROUGH: Morris M. Atta, Acting Administrator *ma*

FROM: E. Mahoe Collins, *ma* State Abstractor

SUBJECT: Tax Map Key: (1) 5-4-05: 12 & 13

We have been requested to determine the State of Hawaii's ownership interests, if any, in and to the subject properties situate, lying and being portions of the Government (Crown) Land of Hauula, District of Koolauloa, Island of Oahu, designated as TMK parcels (1) 5-4-05: 12 & 13, colored in Yellow and Green, respectively, as shown on the map attached hereto as Exhibit "A" and described as follows:

As to TMK (1) 5-4-05: 12

Being a portion of the Government (Crown) Land of Hauula, same being a portion of the former Lot 1 of the Hauula Homesteads, previously utilized as a railroad station site, containing an area of 8,010 square feet or 0.184 acre, more or less.

As to TMK (1) 5-4-05: 13

Being a portion of the Government (Crown) Land of Hauula, same being a portion of the former Lot 1 of the Hauula Homesteads, previously used as a railroad right-of-way, containing an area of 14,354 square feet or 0.329 acre, more or less.

Records and files located in the State Survey Office and the Land Division of the Department of Land and Natural Resources reveal the following:

- In 1907, the subject portions of the Government (Crown) Land of Hauula, were withdrawn from the area of Lot 1 of the Hauula Homesteads and granted to the Koolau Railway Company under Land Office Deed 1258, for use as "its right-of-way, station site and other purposes", until the said company's dissolution in 1932.

EXHIBIT "C"

- Said grant of government lands at Hauula to the Koolau Railway Company for its right-of-way, station site and other purposes was "provided, however, and upon condition that in case said party of the second part shall discontinue the use of said lands for the purpose of operating and maintaining its said railroad, then the lands hereinabove granted shall revert to and again become the property of the Territory of Hawaii, its successors and assigns."

- In October of 1935, under General Lease No. 2424, a "Land License for an easement for railroad purposes" was issued to the Kahuku Plantation Company. Under subsequent General Lease No. 3812, said easement, which only included that portion of the subject premises within the railroad right-of-way, continued to be used by the Kahuku Plantation Company until the cancellation of said easement in 1966.

- As granted under section 5(b) of the Admission Act of March 18, 1959, the State of Hawaii succeeded to the title and ownership interests of the United States in and to all of the public lands and other public property, including the subject premises.

- Under Revocable Permit No. S-6482 dated May 1, 1988, only the subject property bearing tax map key (1) 5-4-005:013 continues to be encumbered.

We find that the subject properties bearing TMK: (1) 5-4-05: 12 & 13, are portions of the Government (Crown) Land of Hauula, owned by the State of Hawaii, and in accordance with §5 of the Admissions Act of March 19, 1959, said portions are ceded and subject to the trust as set forth in said act.

If we can be of any further assistance, please feel free to call me at 587-0458.

Enclosure

